

Notice of Allowability

Application No.

10/624,583

Examiner

Tatyana Zalukaeva

Applicant(s)

DOMSCHKE ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/28/2004.
2. ☒ The allowed claim(s) is/are 12-18.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

REASONS FOR ALLOWANCE

Allowable Claims

1. **Claims 12-18** are allowed over the prior art of record.
2. The following is an examiner's statement of reasons for allowance: It is noted here that Examiner has different reasons for allowance than those advanced by Applicants in their remarks. Claims 12-18 are product-by-process claims, wherein the patentability of the product, although can depend on the process of its making, is, however, defined by the product per se. From the teaching of the instant Specification Examiner concluded that the properties of the product, such as cell growth and water retention are superior in the product due to the process of making it wherein the polymerization is performed at a temperature around the cloud point, and the porogen is removed at a temperature below the cloud point of the composition. This is not taught or suggested by Hennik, wherein the porogen is retained in the polymer network.

Several other references have been discovered as of the day of this communication that teach the removal of porogen from a polymer network after polymerization;

Roberts 2002/0077036 discloses porous polishing layer made of polymer by 1) creating a polymeric layer with one or more polymers and incorporating porogens into the polymeric layer wherein the polymers are more resistant to degradation relative to the porogens and ensuring that the porogens are substantially uniformly dispersed in the polymeric layer; 2) curing the polymeric layer without substantially removing the

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porogens; and 3) curing the polymeric layer to remove the porogens without adversely affecting the surrounding polymeric matrix to form a porous polishing layer. However, the porogen is incorporated after polymerization, and there is no teaching or suggestion for removing the porogen at below cloud point temperature, wherein the polymerization is performed at around cloud point temperature.

Embil et al (U.S. 5,985,319) discloses porous materials wherein one or more suitable monomers are polymerized in the presence of a dispersed porogen, after polymerization the porogen can be removed by evaporation or solvent extraction.

However, there is no suggestion or teaching that a product is obtained under conditions of the instant invention, and therefore has the properties of the instantly claimed product.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tatyana Zalukaeva whose telephone number is (571) 272-1115. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tatyana Zalukaeva
Primary Examiner
Art Unit 1713

December 3, 2004

A handwritten signature in black ink, appearing to read 'Zalukaeva', with a long, sweeping horizontal line extending to the right.